

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS
RESELLERS SHOULD BE INCLUDED IN
THE ULAS ALLOCATION PROCESS

) ADMINISTRATIVE
) CASE NO. 328
)

O R D E R

This matter arising upon petition of Cincinnati Bell Long Distance Inc. ("CBLD") filed December 7, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its response to Item 10(a) of the Commission's November 17, 1989 Order, on the grounds that disclosure is likely to cause CBLD competitive injury, and it appearing to the Commission as follows:

On November 17, 1989, the Commission issued an Order requesting that WATS resellers, including CBLD, respond to several data requests. Item 10(a) requested the following information:

Identify all services purchased from interLATA carriers in Kentucky. List each service separately according to its tariff designation and name the interLATA carriers(s) from which it is purchased.

CBLD contends that if its competitors have access to the information, the following substantial competitive injury could result: (i) CBLD's competitors could decide where, how, and at what price to market their service and based on CBLD's costs, undercut CBLD's market penetration; (ii) carriers from which CBLD purchases services could change their prices to gain economic and competitive advantages over CBLD; and (iii) the information,

combined with CBLD's tariffed rates, could be used to determine CBLD's marketing strategy on a statewide and a local basis.

The information is not known outside of CBLD and is known only to those employees who have a business need to know the information.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Item 10(a) requires CBLD to furnish information concerning the services that it purchases from interLATA carriers. These services are purchased according to published tariffs which are matters of public record, and under its certificated authority, CBLD can only purchase a limited number of those services. Therefore disclosure of this information will not affect CBLD's competitive position, and the petition for confidentiality should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by CBLD to protect from public disclosure the response to Item 10(a) filed in response to the Commission's Order of November 17, 1989 be and is hereby denied.

2. The information sought to be protected shall be held as confidential and proprietary for a period of 5 working days from the date of this Order, at the expiration of which time it shall be placed in the public record.

Done at Frankfort, Kentucky, this 12th day of January, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director